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State v. Peaslee Appellant's Reply Brief Dckt. 39588

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IN THE SUPREME COURT, OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

v.

BRANDON J. PEASLEE,

Defendant-Appellant.

Supreme Court Docket No. 39588

District Court Case No. CR-FE-2011-7428

APPELLANT'S REPLY BRIEF

COPY

REPLY BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA**

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Supreme Court _____ Court of Appeals _____
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STATEMENT OF CASE

Nature of the Case

Brandon Peaslee entered a conditional plea of guilty to conspiracy to commit robbery and the district court imposed a unified sentence of life, with ten years fixed. On appeal, Mr. Peaslee argued that the district court erred in determining that he voluntarily waived his *Miranda*¹ rights during an interrogation in which he made inculpatory statements; the district court erred in holding that he voluntarily consented to a search of his vehicle; and the district court abused its discretion by imposing an excessive, both fixed and aggregate, sentence upon him in light of the mitigating factors present in his case. The instant Reply Brief is necessary to respond to the State's argument on appeal that Mr. Peaslee was not in custody during his interrogation by officers.

Statement of the Facts and Course Proceedings

The statement of facts and course of proceedings was previously articulated in Mr. Peaslee's Appellant's Brief and need not be repeated, but are incorporated herein by reference thereto.

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

ISSUES

1. Did the district court err in denying Mr. Peaslee's motion to suppress statements and evidence in violation of his rights under the Fifth Amendment of the United States Constitution?
2. Did the district court abuse its discretion when it imposed a unified sentence of life, with ten years fixed, upon Mr. Peaslee, following his plea of guilty to conspiracy to commit robbery, in light of the mitigating factors present in his case?²

² The State's response to Mr. Peaslee's claim that the district court erred in imposing an excessive sentence upon him is unremarkable and is not addressed further in the instant Reply Brief.

ARGUMENT

I.

The District Court Erred In Failing To Grant Mr. Peaslee's Motion To Suppress As His Statements Were Obtained In Violation Of His Right To Due Process Of Law

A. Introduction

Following an extended interrogation in a small room with law enforcement officers, Mr. Peaslee admitted to driving a vehicle that was used in the armed robbery and shooting of a clerk at Jackson's Chevron. Leading up to his arrival at the police station and throughout the interrogation by law enforcement, it was apparent that Mr. Peaslee was not free to remove himself from the questioning by armed law enforcement officers. Upon his arrive to the police station, and certainly when Mr. Peaslee was lead into the small interview room by two officers, under the totality of the circumstances, a reasonable person would believe he was in "custody or otherwise deprived of his freedom of action."

B. Mr. Peaslee Was In Custody For Purposes Of *Miranda* When He Was Subjected To Express Questioning By More Than One Officer In A Small Interrogation Room At the Mountain Home Police Department

The requirement of *Miranda* warnings is operative whenever a person is interrogated while they are in "custody or otherwise deprived of his freedom of action in *any significant way*." *Miranda*, 384 at 444 (emphasis added); *State v. Doe*, 130 Idaho 811, 814 (Ct. App. 1997). If a person is not properly *Mirandized* before answering a question in a custodial interrogation, the statement is inadmissible. *Miranda*, 384 U.S. at 492-94.

A person is in custody for purposes of the *Miranda* requirement when there is a formal arrest, or when there is a restraint on the freedom of a person's movement to such a degree that is associated with a formal arrest, or that person's freedom of action is significantly deprived.

California v. Beheler, 463 U.S. 1121, 1125 (1983); *State v. Loosli*, 130 Idaho 398, 399 (1997). In determining whether a person is in custody, the relevant question is how a reasonable person in the defendant's position would have understood his situation. *State v. Albaugh*, 133 Idaho 587, 591 (Ct. App. 1999). "The totality of the circumstances must be examined, which may include the location of the interrogation, the conduct of the officers, the nature and manner of the questioning, the time of the interrogation, and other persons present." *Id.* (citing *State v. Medrano*, 123 Idaho 114, 117-118 (Ct. App. 1992)).

Under the totality of the circumstances, it is apparent that a reasonable person would have understood that he was not free to leave or ignore the officers' questioning. It cannot be understated that Mr. Peaslee is a nineteen year old kid, with no prior contact with law enforcement and has personality traits that leave him easily manipulated by those in a more powerful position. (PSI, p.415, 423.) The day after the robbery, Sergeant Anjelkovich initiated telephone contact with Mr. Peaslee, calling his girlfriend's residence, ultimately speaking with Mr. Peaslee and requesting to talk with him in person. (Tr., p.42, L.12 – p.44, L.14.) Mr. Peaslee was followed to the Mountain Home Police station and was immediately meet by law enforcement officers on the sidewalk after exiting his vehicle. (Tr., p.50, L.15 – p.51, L.25.) Mr. Peaslee was "pat searched for weapons" and led inside the "Sheriff's Office" into a locked interview room. (Tr., p.51, Ls.7-25.)

Once inside the interview room with two armed officers, Mr. Peaslee, a nineteen year old kid that suffers from both "Avoidant and Dependant personality disorder" was questioned by two older experienced law enforcement officers. (See Defendant's Exhibit E.) Throughout the entirety of the interrogation, while an officer did mention early on that Mr. Peaslee was not under

arrest, he was never told that he was free to leave. (Defendant's Exhibit A, pp.1-5.) In fact, during the questioning, officers expressed their belief that Mr. Peaslee was lying, "in big trouble," and personally expressing their belief as to his culpability in the robbery. (See Defendant's Exhibit E.) Then, once questioning had concluded and Mr. Peaslee's vehicle had been searched, Mr. Peaslee was formally arrested and booked into the Elmore County Jail. (Defendant's Exhibit A, pp.1-5.)

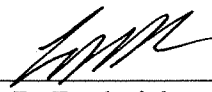
Accordingly, Mr. Peaslee's freedom of a person's movement was restricted too such a degree that a reasonable person would believe that he was unable to remove himself from the situation. *See Beheler*, 463 U.S. at 1125. Thus, Mr. Peaslee was in custody for purposes of *Miranda*. Mr. Peaslee asserts that the district court erred in denying his motion to suppress the inculpatory statements made during the interrogation and the physical evidence obtained following a search of his vehicle.

CONCLUSION

Mr. Peaslee respectfully requests that this Court vacate the district court's order denying his motion to suppress and remand the case for further proceedings. Alternatively, Mr. Peaslee requests this Court reduce his sentence to fifteen years, with five years fixed, as it deems appropriate.

DATED this 5th day of August, 2013.

BRADY LAW, CHARTERED



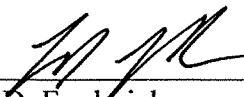
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of August, 2013, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

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